

**Illinois Department of Revenue  
Regulations**

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| <b>Title 86   Part 130   Section 130.335   Pollution Control Facilities and Low Sulfur Dioxide<br/>Emission Coal-Fueled Devices</b> |
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**TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 130  
RETAILERS' OCCUPATION TAX**

**Section 130.335   Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled  
Devices**

- a) Through June 30, 2003, notwithstanding the fact that the sales may be at retail, sales of pollution control facilities are exempt from the Retailers' Occupation Tax. This exemption extends to and includes the purchase of pollution control facilities by a contractor who retransfers the facilities to his customer in fulfillment of a contract to furnish such pollution control facilities to, and to install them for, his customer. The phrase "pollution control facilities" means any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act [415 ILCS 5], or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property. This exemption includes not only the pollution control equipment itself, but also replacement parts therefor, but does not extend to fuel used in operating any such equipment nor to any other tangible personal property which may be used in some way in connection with such equipment, but which is not an integral part of the equipment itself. If the purchaser or his contractor-installer buys an item that could reasonably qualify for exemption as a pollution control facility for use as a pollution control facility, the purchaser or his contractor-installer should certify this intended use of the item to the seller in order to relieve the seller of the duty of collecting and remitting the tax on the sale, but the purchaser who is buying the item in question allegedly for his use as a pollution control facility will be held liable for the tax by the Department if it is found that such purchaser does not use the item as a pollution control facility.
- 1) Asbestos removal systems. This exemption includes devices, materials, and equipment that are integral component parts of an asbestos removal system if the primary purpose of those items is to eliminate, reduce, or prevent pollution. These items may include, but are not limited to:
  - A) protective suits or clothing;
  - B) respirators;
  - C) gloves and glove bags;

- D) filters and vacuum filtration equipment;
  - E) encapsulate materials;
  - F) materials, such as plastic sheeting, lumber, and adhesive tape, that are used to construct containment areas or air locks;
  - G) portable shower units, including water traps and filters, used to decontaminate equipment and personnel;
  - H) plastic bags used for disposal of asbestos; and
  - I) wetting agents used to remove asbestos dust from the air.
- 2) Chemicals used for filtration. This exemption includes any chemical that is primarily utilized for filtration purposes as an integral component of a system for eliminating, reducing, or preventing pollution. Examples of the use of such chemicals include the use of sodium hypochlorite, sodium hydroxide, hydrochloric acid, and nitric acid to filter pollutants in holding tanks and ground limestone mixed with water to remove sulfur dioxide from flue gases.
- 3) Equipment and materials used at landfills. This exemption includes devices, materials, and equipment that are integral component parts of a landfill operation if the primary purpose of those items is to eliminate, reduce, or prevent pollution. These items may include, but are not limited to:
- A) membranes and liners;
  - B) filters;
  - C) materials used in constructing leachate collection systems;
  - D) materials used in constructing landfill gas flare and blower systems to combust and treat landfill gases;
  - E) litter control fences;
  - F) erosion control materials used to prevent water from entering the landfill site and creating water pollution;
  - G) sweepers used to remove debris from landfill sites; and
  - H) bulldozers and excavators that are used to cover waste materials.
- 4) Pollution control monitoring devices. Pollution control monitoring devices that do not prevent, reduce, or eliminate pollution or treat, pretreat, modify, or dispose of any pollutants do not qualify for the pollution control facilities exemption. However, if the pollution control monitoring devices directly adjust other devices that actually reduce or prevent pollution, the pollution control monitoring devices will qualify for the

pollution control facilities exemption.

b) Low Sulfur Dioxide Emission Coal-Fueled Devices

- 1) Notwithstanding the fact that the sales may be at retail, sales of low sulfur dioxide emission coal-fueled devices are exempt from the Retailers' Occupation Tax. This exemption extends to and includes the purchase of such a device, or materials to construct such a device which are physically incorporated into the device, by a contractor who retransfers the device to his customer in fulfillment of a contract to furnish such a device to, and install it for, his customer.
- 2) *Low sulfur dioxide emission coal-fueled devices means any device sold or used or intended for the purpose of burning, combusting or converting locally available coal in a manner which eliminates or significantly reduces the need for additional sulfur dioxide abatement that would otherwise be required under State or Federal air emission standards which will be determined by evaluating the output of sulfur dioxide from the device and consultation with the Pollution Control Board to determine if the device meets their standards and could be certified as a low sulfur dioxide emission device. With respect to coal gasification facilities, such devices include all machinery, equipment, structures and related apparatus including coal-feeding equipment designed to convert locally available coal into a low sulfur gaseous fuel and to manage all waste and by-product streams.* (Section 1a-1 of the Act)
- 3) The exemption includes only the device and replacement parts. It does not extend to chemicals, catalysts, additives or fuels used in the combustion or conversion process. For devices which are not a part of a coal gasification facility, the exemption will not apply to buildings in which the device may be located, nor to machinery and equipment which may receive, store or process coal prior to its burning, combustion or conversion, nor to machinery and equipment used to distribute coal products, steam or energy from the process or remove waste products resulting from the process. For devices which are a part of a coal gasification facility, the exemption will include all machinery, equipment, structures and related apparatus including coal-feeding equipment and equipment to manage waste and by-product streams. A device will qualify for the exemption even if it serves an industrial, manufacturing or other purpose which confers an economic benefit on the purchaser or is used for other purposes in addition to the burning, combusting or converting coal.
- 4) The device must use or be intended to use locally available coal, i.e., coal mined in Illinois.
- 5) Coal conversion includes a variety of processes which produce coal gas, liquid fuel or solid fuels. It does not encompass coal production or preparation techniques such as washing, crushing or pelletization of coal.
- 6) The device or the operation in which it is used must be subject to State or Federal emission control standards and must, in its operation, eliminate or significantly reduce the need for supplementary sulfur dioxide abatement that would otherwise be required.

- c) Generally, vehicles, such as garbage trucks and refuse hauling trucks, whose primary purpose is to haul garbage from one point to another do not qualify for the pollution control facilities exemption. (See *XL Disposal Corporation, Inc. v. Kenneth Zehnder* (304 Ill.App.3d 202, 709 N.E.2d 293 (4th Dist. 1999)).) However, escort trucks that are used primarily as part of a system of preventing or reducing potential pollution in the case of a spill by a vehicle transporting pollutants may qualify for the pollution control facilities exemption. (See *Beelman Truck Company v. Cosentino* (253 Ill.App.3d 420, 624 N.E.2d 454 (5th Dist. 1993)).)

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)